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TAGS: [PGOV](#) [KDEM](#) [AU](#) [MI](#)
SUBJECT: MALAWI ELECTIONS UPDATE: TWO MONTHS TO GO

REF: LILONGWE 80 AND PREVIOUS

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Classified By: Ambassador Peter Bodde for reasons 1.4 (b), (d).

¶1. (C) Summary: The Malawi Electoral Commission (MEC) has delayed its long-awaited ruling on former President's Muluzi's candidacy until after the dissolution of Parliament on March 20. The MEC's recent discovery that over \$2.8 million that had not been properly accounted has dented its credibility, and more potential fraud may emerge from additional audits. In the meantime, seconded Ministry of Finance employees have taken the spots of the ten who were arrested. A recent AU-sponsored visit by former Presidents Chissano of Mozambique and Kufour of Ghana sought to encourage dialogue among Muluzi, MCP leader John Tembo and President Mutharika, but the recent indictment of Muluzi on corruption charges threatens to derail any progress that might have been made in the talks. Recent high-level advocacy with the GOM appears to have lessened opposition to the Malawi Electoral Support Network (MESN) plans for domestic election observation. End Summary.

Muluzi Ruling Won't Delay Elections, says MEC

¶2. (U) After the Malawi Law Society argued that sitting members of Parliament could not legally be declared candidates without resigning their positions, the MEC delayed its announcement of which candidates were eligible until March 20, the day the Parliament will be dissolved. Both the United Democratic Front (UDF) and the MCP said this further delay would undermine the MEC's credibility and increase political tension. Legal scholars said the MEC should not have accepted nominations so early in the electoral calendar to prevent this problem.

¶3. (SBU) MEC chair Justice Anastasia Msosa told emboff that the delayed announcement would not jeopardize the electoral calendar. Msosa assured emboff that the judiciary would prioritize election nomination cases and issue final resolutions within 35 days. MEC staff said that the ballots could be printed and delivered in under four weeks, which would still allow for a May 19 polling date with legal challenges.

Audit Just the Beginning of Financial Woes?

¶4. (SBU) Concerning its recent snap audit that found over

\$2.8 million USD missing, MEC staff told donors it was difficult to tell how much was malfeasance and how much was due to improper accounting procedures. Justice Msosa told emboff that the government had been unable to complete a follow-up audit covering October-December and the MEC was requesting donors to pay for a second private audit. Furthermore, Msosa said it was likely that the MEC would need private contractors to supervise its financial department, which was now staffed with seconded workers from the Ministry of Finance.

15. (SBU) The MEC continues to request additional funding in a supplementary budget request, but a combined government/donor analysis showed the new budget request was not enough to cover what had already been spent in many departments. According to the analysis, the MEC budget does not adequately estimate and justify costs, nor has it adhered to its original budget. Despite the significant overspending, some areas, most notably information technology, need urgent funding to pay contractual commitments. Likewise, a lack of capacity has forced technical advisors to exceed their contractual obligations in both scope and duration. In many departments, technical advisors now run the sections and perform many duties.

Court Faults MEC on Nomination Deposits

16. (U) On February 18, the High Court ruled that the MEC had violated the law by increasing nomination deposits twentyfold without consulting political parties. However, Justice Potani said in his ruling that he could not reverse the MEC's decision because it would place an undue burden on the Commission. The ruling may set precedence for future

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elections, but left claimants with an unclear way forward in their challenge.

AU Heads of State Mission Asks Muluzi to Bow Out

17. (SBU) On February 20, former presidents Joachim Chissano of Mozambique and John Kufuor of Ghana arrived in Malawi to meet with President Mutharika, former President Muluzi, and MCP leader John Tembo in an effort to diffuse pre-election tension. The mission, described as the first of a series of pre-election assessments by the African Union, ended with the announcement that Mutharika, Muluzi, and Tembo had agreed to direct talks. In a departure press conference, Kufour described the need for the leaders to engage in dialogue now to prevent a conflict. However, the next day the Anti-Corruption Bureau indicted former President Muluzi on 87 counts of corruption (septel) forcing Chissano and Kufour to plan a return trip to Malawi on March 3.

18. (C) Media reports indicated that Kufour and Chissano came to Malawi at the behest of President Mutharika. UDF sources told emboff that the two attempted to convince Muluzi to withdraw from the election. Muluzi reportedly responded indignantly to the request, saying he was also a former head of state. He told Kufour and Chissano that he did not come to their countries and tell them what to do, so why did they think they could do this to him? Moreover, Muluzi insisted that the two ex-leaders did not know what the people of Malawi wanted -- and he did. Mutharika confidant Davies Katsonga, the Minister of Labor, told DCM March 2 that the two presidents had suggested to Mutharika that he offer Muluzi a full pardon from corruption charges in return for retiring from politics. Katsonga asked rhetorically why Mutharika would accept such a deal with a candidate who stood no chance of winning, and who had engaged in corruption, but did not clearly rule out such a deal.

19. (C) In addition to the political leaders, Chissano and Kufour also met with civil society leaders, including Malawi

Electoral Support Network (MESN) Director Aloisius Nthenda. Nthenda told emboff that Chissano and Kufour admitted they asked Muluzi to withdraw. The two former presidents also blamed a weak civil society in Malawi for not putting enough pressure on the country's leaders. They said they believed only a strong, coordinated grassroots effort could convince Muluzi to back down. Kufour and Chissano also commented that Malawi had by far the most potential for election-related violence of any country in the region this year.

Malawi Law Society Supports MESN PVT

¶10. (SBU) On February 25, the Malawi Law Society (MLS) released a full-page statement to the press commenting on MESN's proposed parallel vote tally (PVT). The MLS said that while the results management scheme put in place by the law was sufficient to deliver a transparent and fair result, it also allowed for representatives of political parties to be involved in the counting process. Furthermore, parties are entitled to copies of official records and can use them to create their own tally centers without the need of the approval or permission of the government or MEC. The MLS said that as an accredited monitor, MESN also could collect and tabulate official results at their own tally center without permission. However, the MLS pointed out that in the event of a results dispute, the MESN PVT results could not be taken as official, but only used to assist in quickly identifying problems. MEC Chair Anastasia Msosa has already publicly stated the MEC will accredit MESN and other civil society groups as official local monitors.

Progress on Local Election Observation

¶11. (C) The MLS statement broke a week plus silence about PVT in the media. While MESN has kept out of the public eye regarding its proposal, the Ambassador and DCM have privately lobbied high levels of the GOM to reverse its initial opposition to a PVT. In separate, private meetings with the Chief Secretary, President Mutharika's brother, and the President himself, the Ambassador focused on the positive aspects of strong domestic observation. Additionally, the

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Ambassador has encouraged the government to openly invite an internationally recognized organization to assist MESN so its efforts will be as effective and transparent as possible. The GOM has responded positively to these meetings and has told the Ambassador that organizations such as the National Democratic Institute or International Republican Institute are welcome in Malawi.

¶12. (C) Comment: The consensus among Malawi's election donors is that the MEC is in internal disarray. Donors will likely be asked to come up with at least \$3 million additional and probably significantly more. The MEC's poor handling of key issues such as the nomination calendar have dented its credibility. The further delay on the announcement regarding Muluzi's nomination has increased electoral tension and raised the possibility of a postponement of polling. Muluzi's recent arrest on corruption charges has further raised the political temperature. The government's attitude regarding domestic election observation is a bright spot; technically sound observation will be necessary. The AU's pre-electoral mission introduces a potentially significant new actor to this drama.

BODDE